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09/717,587	11/21/2000	Christopher G. Kaler	777.338US1	8807

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EXAMINER

VU, TUAN A

ART UNIT	PAPER NUMBER
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2124

DATE MAILED: 01/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/717,587	Applicant(s) KALER ET AL.	
	Examiner Tuan A Vu	Art Unit 2124	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10, 14, 15, 22-31 and 34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10, 14-15, 22-31, 34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is responsive to the Applicant's response filed 10/18/2004.

As indicated in Applicant's response, claim 1 have been amended; and claims 11-13, 16-21, 32-33 are canceled. Claims 1-10, 14-15, 22-31, and 34 are pending in the office action.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1-10, 14-15, 22-31, and 34 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-7, 9-24 of U.S. Patent No. 09/717645 (hereinafter '645) in view of Leblang et al., USPN: 5,649,200 (i.e. Leblang). Although the conflicting claims are not identical, they are not patentably distinct from each other because the instant claims represent obvious variations of the invention recited in the claims of the '645 application. The following are but a few examples of such conflicts.

As per instant claims 1 and 22, '645 claims 2 and 10 also recite setting a start time with a value representing the current time in the data structure; but these '645 claims do not disclose creating a link content data structure; setting a link set reference field referring to a link set data structure corresponding to set of associated project management objects; and setting an object

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reference field to refer to the project management object as recited in the instant claims. In an analogous method to control objects versioning, Leblang discloses the setting and creating of link set and link data structure or object reference field as claimed (col. 9, lines 8-56; *configuration record* – Fig. 23; *derived object 500* – Fig. 21; col. 32, line 55 to col. 39; Fig. 20; *VOB* -Fig. 22; link 530 - Fig. 23). It would have been obvious for one of ordinary skill in the art at the time the invention was made to add the creation of content data structure and reference link set as claimed to the '645 invention because with such link set and data structure, the method of updating database by '645 would be more enhanced and fault-free when separate data structures are created and set to support users update instances and thereby keep the database from being overwhelmed by simultaneous update operations with potential contention issues.

As per instant claims 3 and 24, '645 claims 6, 14 also recite such data structure being a row in a database.

As per instant claims 6 and 27, '645 claims 2 and 10 also recite setting an end time field but do not recite some limitations for which the teachings by Leblang as set forth from above would have rendered obvious, such limitations being receiving a link set identifier, a reference to the managed object, and locating a link content data structure.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

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The Federal Circuit has recently applied the practical application test in determining whether the claimed subject matter is statutory under 35 U.S.C. § 101. The practical application test requires that a “useful, concrete, and tangible result” be accomplished. An “abstract idea” when practically applied is eligible for a patent. As a consequence, an invention, which is eligible for patenting under 35 U.S.C. § 101, is in the “useful arts” when it is a machine, manufacture, process or composition of matter, which produces a concrete, tangible, and useful result. The test for practical application is thus to determine whether the claimed invention produces a “useful, concrete and tangible result”.

5. Claim 14 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claim 14 recites a data structure having some non-functional descriptive elements such as first field, second field, third field, fourth field, wherein the 2nd and 3rd field define some range. As such, the claim does not provide any action or interaction between the recited structural elements in order to enable a reasonable interpretation that a concrete, tangible, and useful result is present or yielded based on such interaction or actions taken. The claim amounts to an abstract idea for failing the practical test requirements; and is rejected as non-statutory subject matter.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1, 3-6, 8-10, 14, 22, 24-27, 29-31 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leblang et al., USPN: 5,649,200 (hereinafter Leblang), in view of Eisenberg et al., USPN: 5,890,166 (hereinafter Eisenberg).

As per claim 1, Leblang discloses a computerized method for adding (e.g. Fig. 19-23; col. 27, lines 50-67; col. 29, line 3 to col. 34, line 8) an association of a project management object (hereinafter PMO) to a set of associated project management objects, where a link set data structure corresponds to the set of associated project management objects, the method comprising:

creating a link content data structure (e.g. *view ...build ... Release* – col. 9, lines 8-56; *configuration record* – Fig. 23), comprising a link set reference field, an object reference field(entry 532, link 530 - Fig. 20 – Note: entry in CR and link 530 read on link set reference field, and an object reference field, respectively);

adding an association of the project management object to said set of associated project management objects by setting said link set reference field in said link content data structure to a value that refers to a link set data structure corresponding to the set of associated PMOs (e.g. entry 532, link 530; Fig. 20; *VOB* -Fig. 22; link 530 - Fig. 23 – Note: link set reference field, an entry stored link content data structure, i.e. *configuration record*, has a value calling for *link 530* – a link set data structure corresponding to more than on objects, such *derived objects 500* from a *VOB* database of linked derived objects being equivalent to set of PMOs);

setting said object reference field in said link content data structure to refer to the project management object (e.g. an field calling for link 530 - Fig. 23).

But Leblang does not specify creating a start time field in said link content data structure; nor does Leblang teach setting a start time field in the link content data structure to a value representing the current. However, Leblang teaches associating a time stamp with the referred to objects for update (e.g. Fig. 8-9; col. 11, lines 44-51; col. 16, line 49-55). Besides, the

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associating of time stamp to version control and informing on life scope of versioned objects was a well-known concept at the time of the invention. Further, in a method to control versioning analogous to Leblang's method, Eisenberg discloses setting a start time field in the link content data structure to a value representing the current time (e.g. col. 15, lines 17-20, 27-29) and setting an end time field in the link content data structure to a value representing a most recent version of the object (e.g. e.g. col. 5, lines 39-41). It would have been obvious for one of ordinary skill in the art at the time the invention was made to provide the techniques of setting the start and end time as suggested by Eisenberg to Leblang's time stamp attribute because the recording of time variance or time elapsed related to database update operations enable better understanding of real-world interdependencies of versioned objects, their most current versions, and the dynamic state of their being updated by more than one operators over time (see Eisenberg: col. 14, line 1 to col. 17, line 67).

As per claim 3, Leblang teaches that the link content data structure is a row (e.g. *record 514* – Fig. 20; Fig. 21 – Note: one entry for the record in the derived object table is equivalent to a row).

As per claim 4, Leblang does not explicitly specify that accessing the derived objects for version update, i.e. link set data structure, means referring to a row in a database; but teaches a table or record of the object to modify (e.g. *VERSION OBJECT* , *additional fields* – Fig. 9), hence implicitly teaches row to such record.

As per claim 5, Leblang disclose include/header files or object code, meta-data and program source, release notes and scripts (e.g. col. 28, line 33 to col. 29, line 31; Fig. 17; record 532 – Fig. 23; *rlsnotes 208* – Fig. 6); hence discloses PMOs as claimed.

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As per claim 6, Leblang discloses a computerized method for removing (e.g. *merge*, *check-in* – Fig. 13-15) an association of a project management object (hereinafter PMO) from a set of associated project management objects, the method comprising:

receiving an identifier for a link set corresponding to the set of associated PMOs (e.g. link 530, *derived object 500* - Fig. 22, 23);

receiving a reference to the PMO (e.g. col. 32, line 55 to col. 39; link 530 - Fig. 23);

locating a link content data structure containing the reference to the PMO (e.g. record 514 – Fig. 20; *config rec 530*, link 530 – Fig. 21).

But Leblang fails to specify setting an end time field in the link content data structure to a value representing the current time. But this limitation has been addressed in claim 1 above using Eisenberg's teachings, hence is rejected herein likewise.

As per claims 8-9, refer to rejection of claims 4 and 3, respectively.

As per claim 10, see claim 5.

As per claim 14, Leblang discloses a data structure comprising:

a first field comprising a reference to a link set data structure corresponding to a set of associated PMOs (e.g. entries 523, link 530 - Fig. 23);

But Leblang does not specify a second field comprising a start time, a third field comprising an end time, wherein the second and third field define a range of time that the target PMO is associated with the set of associated PMOs. But the limitation of having 2 such fields to use as range for determining time of the target PMO has been addressed in claim 11 above.

As per claim 22, Leblang discloses a computer medium having instructions for performing a method for adding (e.g. Fig. 19-23; col. 27, lines 50-67) an association of a PMO to

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a set of associated project management objects, where a link set data structure corresponds to the set of associated PMOs, the method comprising:

creating a link content data structure (e.g. *view ...build ... Release* – col. 9, lines 8-56; *configuration record* – Fig. 23);

setting said link set reference field in said link content data structure to a value that refers to a link set data structure corresponding to the set of associated PMOs (e.g. entry 532, link 530; Fig. 20; *VOB* -Fig. 22; link 530 - Fig. 23 – Note: link set reference field, an entry stored link content data structure, i.e. *configuration record*, has a value calling for *link 530* – a link set data structure corresponding to more than one objects, such *derived objects 500* from a VOB database of linked derived objects being equivalent to set of PMOs);

setting said object reference field in said link content data structure to refer to the project management object (e.g. an field calling for link 530 - Fig. 23).

But Leblang does not specify setting a start time field in the link content data structure to a value representing the current. However, this limitation has been addressed in claim 1 above; and is rejected herein with the corresponding rejection set forth therein.

As per claims 24-26, these claims correspond to claims 3-5; and are rejected likewise, respectively.

As per claim 27, this is a computer medium claim of corresponding claim 6; hence is rejected with the same rationale used therein.

As per claims 29-31, refer to claims 3-5, respectively, for corresponding rejections.

As per claim 32, this is a computer medium claim of corresponding claim 11; hence is rejected with the same rationale used therein.

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As per claim 34, see claim 5.

8. Claims 2, 7, 15, 23, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leblang et al., USPN: 5,649,200, and Eisenberg et al., USPN: 5,890,166, as applied to claims 1, 6, 14, 22, 27 from above, in view of Reed et al., USPN: 5,862,325 (hereinafter Reed).

As per claim 2, Leblang only teaches link being hard pathname but does not specify object reference field being an URL. However, Leblang teaches hyperlinks to reach versioned data or database (e.g. col. 16, line 57 to col. 17, line 29). Reed, in a communication scheme to enable update of database versioned data analogous to Leblang's version control method using system hard links, discloses use of URL to reach out for version instances of objects (e.g. <http://company.com/commobject3481.cos> -- col. 91, line 27 to col. 92, line 9; Fig. 2). It would have been obvious for one of ordinary skill in the art at the time the invention was made to provide such URL to locate version database as suggested by Reed, and apply this to Leblang linking method because database accessible across the internet would alleviate extraneous storage resources of the local system or environment under which Leblang's method operates for version update.

As per claim 7, this claim corresponds to claim 2 above, hence is rejected herein using the same rationale as set forth therein.

As per claim 15, see claim 2.

As per claims 23 and 28, see claim 2.

Response to Arguments

9. Applicant's arguments filed 1/15/2004 have been fully considered but they are not persuasive. Following are the Examiner's remarks therefor.

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(A) **As per claims using Leblang**, Applicants have submitted that Leblang invention involves more than the current invention invokes and that Leblang view requires a set of rules called *config spec* for selecting which version to select from a database along with definition of wildcards, mnemonics not specific versions and that is not what is being claimed by the current invention (Appl. Rmrks, pg. 8, top 4 paras). While it is true that Leblang's view is a dynamic process for selecting versioned objects and that the selecting is using special commands similar to pseudo-code instructions; there is no teaching away between what is claimed and what has been used to read on the claim. When components are added and persisted in records amounting to what is called configuration records, the means by way of which those records are created import little or have no effect on reading away from the claim. The reason is that the claim only recites 'creating a link content data structure' and thereby does not set the scope nor define terms/actions as to how the creation of such record or 'link content data structure' has been specifically performed. There is no recital of any form of action that elaborates on the term 'creating' and as reasonably interpreted, when Leblang's configuration records are persisted for reference to different stage of a build, say for auditing, Leblang's CRs are fulfilling what is explicitly recited from the claim.

(B) Applicants have submitted that Leblang's 'view' and 'wildcards or mnemonic names' or 'Version Selection Rules' do not constitute what is claimed as a link content data structure (LCDS) or link set data structure (LSDS), i.e. what is claimed as LCDS and/or LSDS is materialized without a 'wildcards or mnemonic names' or 'Version Selection Rules' (Appl. Rmrks, pg. 8, bottom para). As mentioned above, the claim only recites the steps of creating a link content data structure, setting a field therein with a value referring to another link set

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structure in another set of PMO and more setting of fields in the context of adding an association of a project management object to a set of associated project management objects; hence is completely silent as to explicitly enforcing how such 'view' or 'Version Selection Rule' should be precluded for any reason. The 'view' in Leblang at least is a interactive place wherein objects are added in order to represent what is prescribed by the requirements of a bill of material or a configuration designed for a build or release because it is inherent that the so-called *view* be an user interface to which additional modifications are to be performed by the developer. And the result of using the view and its rules is the creation of instances of configuration record among others; i.e. for each object added into the build a record is created for linking or associate the added component with other project managed objects; and this is evidenced in Fig. 16-23. For the sake of argument, Applicant would think that by having a view run based on rules and mnemonics, there is no adding step being performed for creating a configuration record or a link content data structure. The cited Figs 19-23 and related text demonstrate a user's environment to enlist and select files via commands or scripts using version control tool to put together files destined for a build or a release modification; and this disclose how files are added to create a build. The generated entries in the configuration records are another evidences of how files are selectively added. It is noted that a record is being composed of entries/fields being added at inception or post-creation thereof; and Leblang's CR happens to have both aspect of adding (see Fig. 20, 23). Absent any step of adding, Leblang's configuration record would cease to being a record because a record is a structure used to persist a usually time-reflecting form of data organized in fields or entries reflecting changes or modifications or creations or deletions of the very data as being practiced in well-known art of data persisting. The claim as recited, i.e.

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“adding an association of a project management object to a set of associated project management objects” does not preclude that the associated objects being enlisted for the build have been the result of a user’s *view* using rule-based commands or script. Hence, the argument that view and Version Rules cannot be analogized to the structures (i.e. link set, link content) required of claim 1 is not persuasive in negating the fact that Leblang’s records has been the result of adding up to being what is equivalent to the claimed link content data structure which contains link set structure to more associated PMOs.

For the above reasons, the claims stand rejected as set forth in the present rejection.

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan A Vu whose telephone number is (272) 272-3735. The examiner can normally be reached on 8AM-4:30PM/Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Kakali Chaki can be reached on (571)272-3719.


The fax phone number for the organization where this application or proceeding is assigned is (571) 273-3735 (for non-official correspondence – please consult Examiner before using) or 703-872-9306 (for official correspondence) or redirected to customer service at 571-272-3609.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

VAT

December 19, 2004



TODD INGBERG
PRIMARY EXAMINER